

PLANNING COMMISSION RECOMMENDATION

ORDINANCE NO. \_\_\_\_\_

#120  
6-8-06

AN ORDINANCE ESTABLISHING TEMPORARY REGULATIONS RELATING TO MOBILE FOOD ESTABLISHMENTS AND CREATING A MOBILE FOOD ESTABLISHMENT TASK FORCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

- (A) Mobile food establishments located on private property have not been recognized by the City in the past as a use that is permitted in the City.
- (B) Mobile food establishments have become a vibrant activity that contributes to the vitality of the City.
- (C) The Council desires to recognize mobile food establishments as a use that is permitted and to establish regulations applicable to the use.
- (D) During the period that the City is developing regulations for the use, the Council desires to establish temporary regulations that will permit the operation of a food establishment use until permanent regulations have been established.

PART 2. DEFINITIONS.

In this ordinance:

- (1) PERMITHOLDER means the person to whom a mobile food establishment permit is issued.
- (2) MOBILE FOOD ESTABLISHMENT has the meaning established in Section 229.162 (*Definitions*) of the Texas Administrative Code and Section 10-3-1 (*Definitions*) of the City Code.
- (3) SOUND EQUIPMENT has the meaning established in Section 9-2-1 (*Definitions*) of the City Code.

1 **PART 3. MOBILE FOOD ESTABLISHMENT REGULATIONS.**

- 2 (A) A mobile food establishment is not permitted on private property except as  
3 provided in this part.
- 4 (B) A mobile food establishment:
- 5 (1) must be licensed by the health authority;
- 6 (2) is permitted in all commercial and industrial zoning districts;
- 7 (3) may not be located within 50 feet of a lot with a building that contains  
8 both a residential and commercial use;
- 9 (4) may not operate between the hours of 3:00 a.m. and 6:00 a.m.;
- 10 (5) may not be located within 300 feet of more than one mobile food  
11 establishment that is on the same side of the street and in the same  
12 block; and
- 13 (6) may not be located within 20 feet of a restaurant (general) or  
14 restaurant (limited) use.
- 15 (C) The noise level of the following types of equipment used in association with  
16 a mobile food establishment may not exceed 70 decibels when measured at  
17 the property line that is across the street from or abutting a residential use:
- 18 (1) mechanical equipment; and
- 19 (2) sound equipment located outside of the mobile food establishment  
20 use.
- 21 (D) A seating area for customers is prohibited.
- 22 (E) Four off-street parking spaces are required.
- 23 (F) A drive-in service is not permitted.
- 24 (G) Exterior lighting must be hooded or shielded so that the light source is not  
25 directly visible to a residential use.
- 26 (H) A mobile food establishment is limited to a sign attached to the exterior of  
27 the mobile food establishment. The sign:

- 1 (1) must be secured and mounted flat against the mobile food  
2 establishment; and
- 3 (2) may not project more than six inches from the exterior of the mobile  
4 food establishment.
- 5 (I) During business hours, the permit holder shall provide a trash receptacle for  
6 use by customers.
- 7 (J) The permit holder shall clear the area around the mobile food establishment  
8 of litter and debris each day of operation.
- 9 (K) A permanent water or wastewater connection is prohibited.
- 10 (L) Electrical service may be provided only by:
- 11 (1) temporary service or other connection provided by an electric utility;  
12 or
- 13 (2) an onboard generator.
- 14 (M) A mobile food establishment is an accessory use and not subject to this  
15 ordinance if it:
- 16 (1) is located on the same site as a restaurant (limited) or restaurant  
17 (general) use; and
- 18 (2) serves food provided by the restaurant (limited) or restaurant (general)  
19 use.

20 **PART 4. APPLICATION; APPROVAL.**

- 21 (A) A person may file a temporary use permit application for a mobile food  
22 establishment with the building official. The person must file the  
23 application at least ten days before the requested date for beginning  
24 operation of the mobile food establishment.
- 25 (B) An application must include a diagram and description of the mobile food  
26 establishment and additional information required by the building official.
- 27 (C) After making a determination under Subsection (D), the building official  
28 shall approve, conditionally approve under Subsection (E), or deny an  
29 application not later than the 10th day after the date the application is filed.

1 (D) If the building official approves or conditionally approves an application the  
2 building official shall issue a temporary use permit for a mobile food  
3 establishment.

4 (E) A temporary use permit for a mobile food establishment is effective for one  
5 year. A person must file a new application to continue beyond one year.

6 **PART 5. DETERMINATIONS.**

7 The building official may issue a temporary use permit after determining that the  
8 mobile food establishment:

- 9 (1) complies with this ordinance;  
10 (2) will not impair the normal, safe, and effective operation of a  
11 permanent use on the same site;  
12 (3) will not adversely affect public health, safety, or convenience;  
13 (4) will not create a traffic hazard or congestion; and  
14 (5) will not interrupt or interfere with the normal conduct of uses and  
15 activities in the vicinity.

16 **PART 6. CONDITIONS OF APPROVAL.**

17 The building official may condition the approval of a temporary use permit for a  
18 mobile food establishment on compliance with additional requirements that the building  
19 official determines are necessary to minimize adverse effects on nearby uses, including  
20 traffic circulation, screening, site restoration, and cleanup.

21 **PART 7. SITE RESTORATION.**

22 On termination of a mobile food establishment use, the permit holder shall remove  
23 all debris and litter from the site.

24 **PART 8. TASK FORCE CREATED.**

25 The Mobile Food Establishment Task Force is created. The Task Force shall  
26 present a recommendation for permanent mobile food establishment regulations to  
27 Council on or before August 31, 2006.

28 **PART 9. This ordinance expires on September 29, 2006.**

1 **PART 10.** This ordinance takes effect on \_\_\_\_\_, 2006.

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3 **PASSED AND APPROVED**

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7 \_\_\_\_\_, 2006

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8 Will Wynn  
9 Mayor

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12 **APPROVED:**

13 David Allan Smith  
14 City Attorney

15 **ATTEST:**

16 Shirley A. Gentry  
17 City Clerk